

1 _____ BILL NO. _____

2 INTRODUCED BY _____
3 (Primary Sponsor)

4 A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING THE UNDEVELOPED SUPERFUND LAND
5 CLASSIFICATION ACT; PROVIDING FOR THE CLASSIFICATION OF UNDEVELOPED LAND LOCATED IN
6 A DESIGNATED SUPERFUND SITE FOR PROPERTY TAX PURPOSES; PROVIDING FOR TAXATION OF
7 UNDEVELOPED REMEDIATED LAND AS CLASS FOUR PROPERTY; PROVIDING DEFINITIONS;
8 AMENDING SECTIONS 15-6-133, 15-6-134, AND 15-7-202, MCA; AND PROVIDING AN IMMEDIATE
9 EFFECTIVE DATE AND AN APPLICABILITY DATE."

10
11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

12
13 NEW SECTION. **Section 1. Short title.** [Sections 1 through 3] may be cited as the "Undeveloped
14 Superfund Land Classification Act".

15
16 NEW SECTION. **Section 2. Definitions.** As used in [sections 1 through 3], the following definitions
17 apply:

18 (1) "Undeveloped remediated land" means vacant superfund land that has been reclaimed pursuant
19 to a plan approved by the United States environmental protection agency whose character makes it compatible
20 with residential, commercial, and industrial development.

21 (2) "Undeveloped repository land" means vacant superfund land that may or may not have been
22 reclaimed and is unsuited for development as residential, commercial, or industrial property because:

23 (a) it contains repositories designed to sequester hazardous materials; or

24 (b) its natural features, including but not limited to slope, soil stability, wetlands, and other factors, are
25 incompatible with other developed land uses.

26 (3) "Vacant superfund land" means undeveloped public and privately owned land located in a
27 designated superfund site as provided on the national priorities list.

28

1 **NEW SECTION. Section 3. Property classification procedure -- superfund land.** (1) Except as
2 provided in subsection (5), during each reappraisal cycle the department shall classify vacant superfund land as
3 either undeveloped remediated land or undeveloped repository land.

4 (2) Prior to classifying vacant superfund land under this act, the department shall individually consult
5 with the counties that have superfund sites within their boundaries to determine which lands are best suited for
6 classification as undeveloped remediated land.

7 (3) Undeveloped repository land must be classified as class three property under 15-6-133.

8 (4) Undeveloped remediated land must be classified as class four property under 15-6-134.

9 (5) Vacant superfund land that was used in an active agricultural operation in calendar year 2020 for
10 the growing of crops, to support livestock, or for forestry is exempt from the provisions of [sections 1 through 3].

11

12 **Section 4.** Section 15-6-133, MCA, is amended to read:

13 "**15-6-133. Class three property -- description -- taxable percentage.** (1) Class three property
14 includes:

15 (a) agricultural land as defined in 15-7-202;

16 (b) nonproductive patented mining claims outside the limits of an incorporated city or town held by an
17 owner for the ultimate purpose of developing the mineral interests on the property. For the purposes of this
18 subsection (1)(b), the following provisions apply:

19 (i) The claim may not include any property that is used for residential purposes, recreational purposes
20 as described in 70-16-301, or commercial purposes as defined in 15-1-101 or any property the surface of which
21 is being used for other than mining purposes or has a separate and independent value for other purposes.

22 (ii) Improvements to the property that would not disqualify the parcel are taxed as otherwise provided
23 in this title, including that portion of the land upon which the improvements are located and that is reasonably
24 required for the use of the improvements.

25 (iii) Nonproductive patented mining claim property must be valued as if the land were devoted to
26 agricultural grazing use.

27 (c) parcels of land of 20 acres or more but less than 160 acres under one ownership that are not
28 eligible for valuation, assessment, and taxation as agricultural land under 15-7-202(1), which are considered to

1 be nonqualified agricultural land. Nonqualified agricultural land may not be devoted to a commercial or
2 industrial purpose. Nonqualified agricultural land is valued at the average productive capacity value of grazing
3 land.

4 (d) undeveloped repository land as defined in [section 2] and classified by the department under
5 [section 3].

6 (2) Subject to subsection (3), class three property is taxed at 2.16% of its productive capacity value.

7 (3) The taxable value of land described in subsection (1)(c) is computed by multiplying the value of
8 the land by seven times the taxable percentage rate for agricultural land."

9

10 **Section 5.** Section 15-6-134, MCA, is amended to read:

11 **"15-6-134. Class four property -- description -- taxable percentage.** (1) Class four property
12 includes:

13 (a) subject to subsection (1)(e), all land, except that specifically included in another class;

14 (b) subject to subsection (1)(e):

15 (i) all improvements, including single-family residences, trailers, manufactured homes, or mobile
16 homes used as a residence, except those specifically included in another class;

17 (ii) appurtenant improvements to the residences, including the parcels of land upon which the
18 residences are located and any leasehold improvements;

19 (iii) vacant residential lots; ~~and~~

20 (iv) rental multifamily dwelling units; and

21 (v) undeveloped remediated land as defined in [section 2] and classified by the department under
22 [section 3].

23 (c) all improvements on land that is eligible for valuation, assessment, and taxation as agricultural
24 land under 15-7-202, including 1 acre of real property beneath improvements on land described in 15-6-
25 133(1)(c). The 1 acre must be valued at market value.

26 (d) 1 acre of real property beneath an improvement used as a residence on land eligible for valuation,
27 assessment, and taxation as forest land under 15-6-143. The 1 acre must be valued at market value.

28 (e) all commercial and industrial property, as defined in 15-1-101, and including:

1 (i) all commercial and industrial property that is used or owned by an individual, a business, a trade, a
2 corporation, a limited liability company, or a partnership and that is used primarily for the production of income;

3 (ii) all golf courses, including land and improvements actually and necessarily used for that purpose,
4 that consist of at least nine holes and not less than 700 lineal yards;

5 (iii) commercial buildings and parcels of land upon which the buildings are situated; and

6 (iv) vacant commercial lots.

7 (2) If a property includes both residential and commercial uses, the property is classified and
8 appraised as follows:

9 (a) the land use with the highest percentage of total value is the use that is assigned to the property;
10 and

11 (b) the improvements are apportioned according to the use of the improvements.

12 (3) (a) Except as provided in 15-24-1402, 15-24-1501, 15-24-1502, and subsection (3)(b), class four
13 residential property described in subsections (1)(a) through (1)(d) of this section is taxed at 1.35% of market
14 value.

15 (b) The tax rate for the portion of the market value of a single-family residential dwelling in excess of
16 \$1.5 million is the residential property tax rate in subsection (3)(a) multiplied by 1.4.

17 (c) The tax rate for commercial property is the residential property tax rate in subsection (3)(a)
18 multiplied by 1.4.

19 (4) Property described in subsection (1)(e)(ii) is taxed at one-half the tax rate established in
20 subsection (3)(c)."

21

22 **Section 6.** Section 15-7-202, MCA, is amended to read:

23 **"15-7-202. Eligibility of land for valuation as agricultural.** (1) (a) ~~Contiguous~~ Except as provided in
24 subsection (7)(b), parcels of land totaling 160 acres or more under one ownership are eligible for valuation,
25 assessment, and taxation as agricultural land each year that none of the parcels is devoted to a residential,
26 commercial, or industrial use.

27 (b) (i) ~~Contiguous~~ Except as provided in subsection (7)(b), parcels of land of 20 acres or more but
28 less than 160 acres under one ownership that are actively devoted to agricultural use are eligible for valuation,

1 assessment, and taxation as agricultural land if:

2 (A) the land is used primarily for raising and marketing, as defined in subsection (1)(c), products that
3 meet the definition of agricultural in 15-1-101 and if, except as provided in subsection (3), the owner or the
4 owner's immediate family members, agent, employee, or lessee markets not less than \$1,500 in annual gross
5 income from the raising of agricultural products produced by the land; or

6 (B) the parcels would have met the qualification set out in subsection (1)(b)(i)(A) were it not for
7 independent, intervening causes of production failure beyond the control of the producer or a marketing delay
8 for economic advantage, in which case proof of qualification in a prior year will suffice.

9 (ii) Noncontiguous parcels of land that meet the income requirement of subsection (1)(b)(i) are eligible
10 for valuation, assessment, and taxation as agricultural land under subsection (1)(b)(i) if:

11 (A) the land is an integral part of a bona fide agricultural operation undertaken by the persons set
12 forth in subsection (1)(b)(i) as defined in this section; and

13 (B) the land is not devoted to a residential, commercial, or industrial use.

14 (iii) Parcels of land that are part of a family-operated farm, family corporation, family partnership, sole
15 proprietorship, or family trust that is involved in Montana agricultural production consisting of 20 acres or more
16 but less than 160 acres that do not meet the income requirement of subsection (1)(b)(i) may also be valued,
17 assessed, and taxed as agricultural land if the owner:

18 (A) applies to the department requesting classification of the parcel as agricultural;

19 (B) verifies that the parcel of land is greater than 20 acres but less than 160 acres and that the parcel
20 is located within 15 air miles of the family-operated farming entity referred to in subsection (1)(b)(iii)(C); and

21 (C) verifies that:

22 (I) the owner of the parcel is involved in agricultural production by submitting proof that 51% or more
23 of the owner's Montana annual gross income is derived from agricultural production; and

24 (II) property taxes on the property are paid by a family corporation, family partnership, sole
25 proprietorship, or family trust that is involved in Montana agricultural production and 51% of the entity's
26 Montana annual gross income is derived from agricultural production; or

27 (III) the owner is a shareholder, partner, owner, or member of the family corporation, family
28 partnership, sole proprietorship, or family trust that is involved in Montana agricultural production and 51% of

1 the person's or entity's Montana annual gross income is derived from agricultural production.

2 (c) For the purposes of this subsection (1):

3 (i) "marketing" means the selling of agricultural products produced by the land and includes but is not
4 limited to:

5 (A) rental or lease of the land as long as the land is actively used for grazing livestock or for other
6 agricultural purposes; and

7 (B) rental payments made under the federal conservation reserve program or a successor to that
8 program;

9 (ii) land that is devoted to residential use or that is used for agricultural buildings and is included in or is
10 contiguous to land under the same ownership that is classified as agricultural land, other than nonqualified
11 agricultural land described in 15-6-133(1)(c), must be classified as agricultural land, and the land must be
12 valued as provided in 15-7-206.

13 (2)—~~Contiguous~~ Except as provided in subsection (7)(b), contiguous or noncontiguous parcels of
14 land totaling less than 20 acres under one ownership that are actively devoted to agricultural use are eligible for
15 valuation, assessment, and taxation as agricultural each year that the parcels meet any of the following
16 qualifications:

17 (a) except as provided in subsection (3), the parcels produce and the owner or the owner's agent,
18 employee, or lessee markets not less than \$1,500 in annual gross income from the raising of agricultural
19 products as defined in 15-1-101;

20 (b) the parcels would have met the qualification set out in subsection (2)(a) were it not for
21 independent, intervening causes of production failure beyond the control of the producer or marketing delay for
22 economic advantage, in which case proof of qualification in a prior year will suffice; or

23 (c) in a prior year, the parcels totaled 20 acres or more and qualified as agricultural land under this
24 section, but the number of acres was reduced to less than 20 acres for a public use described in 70-30-102 by
25 the federal government, the state, a county, or a municipality, and since that reduction in acres, the parcels
26 have not been further divided.

27 (3) For grazing land to be eligible for classification as agricultural land under subsections (1)(b) and
28 (2), the land must be capable of sustaining a minimum number of animal unit months of carrying capacity. The

1 minimum number of animal unit months of carrying capacity must equate to \$1,500 in annual gross income as
2 determined by the Montana state university-Bozeman department of agricultural economics and economics.

3 (4) The grazing on land by a horse or other animals kept as a hobby and not as a part of a bona fide
4 agricultural enterprise is not considered a bona fide agricultural operation.

5 (5) (a) Upon application by the property owner, the following parcels of land are eligible for
6 provisional agricultural classification for 5 years to allow crops to reach salable maturity:

7 (i) a fruit orchard consisting of a minimum of 100 live fruit trees maintained using accepted fruit tree
8 husbandry practices, including pest and disease management, fencing, and a watering system;

9 (ii) a vineyard containing a minimum of 120 live vines maintained using accepted husbandry practices,
10 including weed and grass maintenance, pest and disease management, pruning, and trellising and staking; and

11 (iii) property containing a minimum of 2,000 live Christmas trees cultivated according to accepted
12 husbandry practices, including regular shearing.

13 (b) Following the 5th year of provisional agricultural classification, the property owner shall submit an
14 application for agricultural classification. The application must include documentation proving that the property
15 continues to meet the requirements of subsection (5)(a) and that the income requirements of subsection (2)(a)
16 have been met.

17 (6) The department may not classify land less than 160 acres as agricultural unless the owner has
18 applied to have land classified as agricultural land. Land of 20 acres or more but less than 160 acres for which
19 no application for agricultural classification has been made is valued as provided in 15-6-133(1)(c) and is taxed
20 as provided in 15-6-133(3). If land has been valued, assessed, and taxed as agricultural land in any year, it
21 must continue to be valued, assessed, and taxed as agricultural until the department reclassifies the property. A
22 reclassification does not mean revaluation pursuant to 15-7-111.

23 (7) For the purposes of this part:

24 (a) growing timber is not an agricultural use; and

25 (b) undeveloped remediated land as defined in [section 2] and classified by the department under
26 [section 3] may not be classified as agricultural land or nonqualified agricultural land."

27

28 NEW SECTION. Section 7. Codification instruction. [Sections 1 through 3] are intended to be

1 codified as an integral part of Title 15, chapter 24, and the provisions of Title 15, chapter 24, apply to [sections
2 1 through 3].

3
4 NEW SECTION. Section 8. Severability. If a part of [this act] is invalid, all valid parts that are
5 severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications,
6 the part remains in effect in all valid applications that are severable from the invalid applications.

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8 NEW SECTION. Section 9. Effective date. [This act] is effective on passage and approval.

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10 NEW SECTION. Section 10. Applicability. [This act] applies to property tax reappraisal cycles
11 beginning on or after [the effective date of this act].

12 - END -